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Date: June 8, 2004

To: MAIL STOP AMENDMENT
Examiner Gina C.Yu
US Patent and Trademark Office
Fax: 703-872-9306

Subject: USSN: 09/890,078
Our Ref.: 100718-339 (Beiersdorf 724-WCG/TAG)

From: Theodore A. Gottlieb

Comments: Filing of: response to Office Action dated 8 April 2004, including Response to Restriction Requirement (6 pgs.); and Petition for One Month Extension of Time (2 pgs.)

If you have any questions or need further information, please contact us.

You should receive 9 pages including this cover sheet.

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Attorney Docket: Beiersdorf 724

Schreiber et al.
USSN 09/890,078

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO.	:	09/890,078
APPLICANT	:	Schreiber et al.,
FILED	:	3 January 2002
EXAMINER	:	Gina C. Yu
ART UNIT	:	1617
FOR	:	Cosmetic or Pharmaceutical Lecithin-containing Gels or Low-Viscosity Lecithin-containing O/W emulsions

MAIL STOP AMENDMENT

Hon. Commissioner of
Patents
P.O. Box 1450
Alexandria, VA 22313-1450

8 June 2004

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

This communication is in response to the Office Action dated 8 April 2004

Entry of the election and consideration of the remarks in support of traversal are respectfully considered.

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Attorney Docket: Seierstad 24
Scheibel et al
USSN 09/890,078

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CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicants request that this be considered a petition therefore. Please charge the required fee to Deposit Account No. 14-1263.

ADDITIONAL FEES

Please charge any further insufficiency of fees, or credit any excess to Deposit Account No. 14-1263.

REMARKS

Provisional Election Group I

Claims 21-38 have been subjected to a two-way restriction requirement.

In response, Applicants provisionally elect with traverse, Group I encompassing claims 21-32, drawn to a gel composition.

Comments in Support of Traversing the Restriction Requirement.

The basis of the restriction requirement is that the claims of Group I are related to those of Group II as being a product and the process of making the product, respectively.

It is further stated on page 3 of the action that process claims that depend from or otherwise include all the limitations of the product claim may be added. It is pointed out that claim 33 depended from claim 21 as the preamble specifically indicates that the method is narrowly directed to the gel of claim 21. Thus the method should not have been treated as a separate invention in view of the fact that all of the limitations of claim 21 were incorporated into claim 33.

However, to expedite the resolution of this matter, claim 33 has been further amended to specify the dependence from claim 21. Claim 33 now refers to the oil phase

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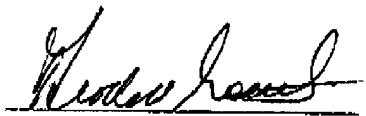
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and the aqueous phase. Together with the explicit reference to the gel of claim 21, there cannot be reasonable uncertainty that claim 33 depends from claim 21.

Accordingly, the restriction requirement should be withdrawn, and Group I and Group II examined together.

Respectfully Submitted,

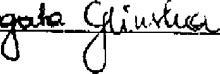
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IN THE CLAIMS

Amend the claims as follows:

1. to 20. (Cancelled).

21. (Previously presented) A dilutable transparent or translucent gel of the oil-in-water type having an aqueous phase and an oil phase, comprising:

an oil phase having at least one phospholipid and at least one O/W emulsifier and optionally, at least one W/O emulsifier,

an aqueous phase,

wherein amounts of each of the phases are mixed with each other to obtain a gel in a form that can be diluted to form a gel of lower viscosity or a microemulsion by adding additional amounts of the aqueous phase, and wherein

the phases optionally comprising auxiliaries, additives, active ingredients or combinations thereof.

22. (Previously presented) The gel or microemulsion of claim 21, wherein the at least one phospholipid is a lecithin, a phosphatidylcholine, a phosphatidylethanolamine, a phosphatidylserine, phosphoinositide, a lysolecithin, a lysophosphatidylcholine, a lysophosphatidylethanolamine, a lysophosphatidylserine, a lysophosphoinositide, a phosphatidic acid, or a cardiolipin, a plasmalogen, a phosphosphingolipids, a sphingolipid, or a mixture comprising one or more thereof.

23. (Previously presented) The gel or microemulsion of claim 22, wherein the at least one phospholipid is a diacyl, dialkyl, or alkyl/acyl phospholipid.

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24. (Previously presented) The gel or microemulsion of claim 22, wherein the at least one phospholipid is a phosphatidylethanolamine, and said phosphatidylethanolamine is N-acylated.

25. (Previously presented) The gel or microemulsion of claim 21, wherein the phospholipid content is 0.1% to 50%; the O/W emulsifier is 0.1% to 70%, and the oil phase is 5% to 90%, each weight ratio being based on the total weight of the microemulsion.

26. (Previously Presented) A hair gel, shower gel, or skin gel comprising the gel of claim 10 or 15.

27. (Previously presented) The gel or microemulsion as claimed in claim 10 or 15 further comprising deodorants or antiperspirants.

28 (Previously presented) The gel or microemulsion as claimed in claim 10 or 15, further comprising a UVA and/or UVB filter substance.

29. (Previously presented) The gel or microemulsion as claimed in claim 10 or 15 further comprising antioxidants.

30. (Previously presented) The gel or gel or microemulsion as claimed in claim 10 or 15 further comprising a cosmetic cleansing preparation.

31. (Previously presented) The gel or microemulsion as claimed in claim 10 or 15 further comprising a haircare composition.

32. (Previously presented) The gel or microemulsion as claimed in claim 10 or 15 further comprising active ingredients, additives or auxiliaries.

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33. (Currently amended) A process for preparing the gel of claim 21, comprising the steps of:

preparing an-the oil phase, wherein the oil phase is composed of substantially non-volatile constituents, comprising at least one phospholipid and at least one O/W emulsifier and optionally at least one W/O emulsifier, optionally with additional constituents,

preparing an-the aqueous phase, optionally with additional constituents,

contacting an amount of the aqueous phase with the oil phase, and mixing, wherein the resulting mixture increases in viscosity, and

adding additional amounts of the aqueous phase to reduce the viscosity.

34. (Previously presented). The process of claim 33, wherein the O/W emulsifier and the optionally added W/O emulsifier, are added independently of the addition of the oil phase and during the mixing of the aqueous and oil phases.

35. (Previously presented). The process of claim 33, wherein the O/W emulsifier and the optionally added W/O emulsifier, are added after the viscous microemulsion or gel is prepared.

36. (Previously presented). The process of claim 33, wherein at least one of the aqueous phase and oil phase is heated separately from the other to at least 60 °C prior to contacting and mixing of the phases.

37. (Previously presented). The process of claim 33, wherein the aqueous phase and the oil phase are mixed together gradually, or in a dropwise fashion, wherein at least one of the phases is at a temperature of at least 60°C.

38. (Previously presented). The process of claim 33, wherein the aqueous phase and oil phase are heated separately, and rapidly intermixed.